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United States Department of Agriculture

Packers and Stockyards Administration
Program Aid Number 1374

The Packers and Stockyards Act

Economic Law and Order
in the Marketplace

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The Packers and Stockyards Administration

The Packers and Stockyards Administration is an investigative and law enforcement agency within the U.S. Department of Agriculture.

It is charged with the responsibility of enforcing the Packers and Stockyards (P&S) Act. The agency's work can be described as being economic regulation, as contrasted to health, safety, or service-oriented functions which are carried on by other USDA agencies.

In the words of the Congress, the purpose of the P&S Act is "to assure fair competition and fair trade practices, to safeguard farmers and ranchers . . . to protect consumers . . . and to protect members of the livestock, meat and poultry industries from unfair, deceptive, unjustly discriminatory and monopolistic practices"

The Law

- Prompted by Federal Trade Commission investigation into amount of control exercised by the Nation's five largest firms in meat packing and marketing of livestock and meat.
- Updated several times to keep pace with a changing and dynamic industry, the Packers and Stockyards Act was enacted August 15, 1921.
- Enacted to assure economic law and order in marketing of livestock, meat, and poultry and to assure effective competition and integrity in the marketplace.
- Unlawful Acts—Any unfair, deceptive, discriminatory, or monopolistic practices in the marketing of livestock, meat and poultry.
- Enforcement assigned to Secretary of Agriculture and delegated to the Administrator of USDA's Packers and Stockyards Administration (P&SA).

P&SA Personnel and Organization

Agency employees are investigators—primarily auditors, marketing specialists, packer-poultry specialists, and scales and weighing specialists.

Headquarters in Washington, D.C.

- Livestock Marketing Division
- Packer and Poultry Division

Field Organization

- Twelve regional offices (see page 10)

Who Is Subject to the Packers and Stockyards Act and Who Benefits?

- Those engaged in the business of marketing livestock, meat, and poultry in commerce are subject to the Packers and Stockyards Act. This includes stockyards, commission firms, livestock auctions, order buyers, dealers, meat packers, meat brokers, meat wholesalers and distributors, and live poultry dealers and handlers.

- Farmers and ranchers *are not* subject to the act when buying livestock for their own stocking or feeding purposes, or when marketing their own livestock.

- Livestock producers, poultry growers, consumers, and all ethical firms or individuals engaged in the business of marketing, processing and distributing livestock, meat, and poultry benefit from the act.

Major Enforcement Areas

1. Payment Protection—The Packers and Stockyards Administration (P&SA) pursues an aggressive program to maintain standards of financial stability for those engaged in the marketing of livestock, meat, and poultry. Specific requirements include the following:

Bonds

Commission firms, auction markets, dealers, order buyers, and packers must maintain a bond as a measure of protection for livestock sellers. The size of the bond is based on the volume of business, generally an average of two days' business with a minimum of \$10,000.

Prompt Payment

Commission firms, auction markets, dealers, order buyers and packers are required to pay promptly for livestock. This generally means by the close of business on the day after transfer of possession. For carcass sales, it is the end of the next business day after the final purchase price is determined. Any credit agreement must be in writing, with prior approval from the seller.

Live poultry dealers who purchase for slaughter must make payment within five business days after slaughter, unless other terms are agreed to by the parties.

Contract poultry growers must be paid in accordance with the terms of a written contract.

Payment for meat and meat food products must be made in accordance with contract terms.

Custodial (Trust) Accounts:

Commission firms and auction markets must maintain a separate bank account for custodial funds. This is a special trust account designed to ensure payment to consignors.

Packer Trusts

In the event of a failure to pay for livestock, meat packers are required to hold assets—inventories, proceeds, and proceeds receivable—in trust for the benefit of cash sellers. Cash sellers are legally in a priority payment position in claims against the packer's assets in the event of a business failure.

Temporary Restraining Orders

A temporary restraining order may be obtained through a U.S. district court against those whose actions are likely to result in harm to livestock sellers.

Solvency

Commission firms, auction markets, dealers and order buyers must maintain a solvent financial condition to remain in business. Insolvent packers may be required to pay for livestock under specified conditions.

2. Antitrust—P&SA continuously investigates and analyzes the structure and performance of the livestock, meat and poultry industries to ensure fair and open competitive conditions. Specifically, the agency aggressively pursues programs to detect and prevent:
 - Monopolies.
 - Apportioning of trade territories or supplies, and the manipulation or control of prices.
 - Predatory pricing, boycotting, and other restraints of competition, including pricing agreements, agreements not to compete, and intimidation of potential competitors.
 - Conflicts of interest.
3. Unfair, Deceptive, and Fraudulent Practices (White Collar Crime)—A considerable portion of the agency's resources is allocated to counter unfair, deceptive and fraudulent practices which may properly be described as "white collar crime." These include:
 - Conspiracies: Two or more parties agreeing to a fraudulent arrangement.

- Diversion of packer trusts: A willful diversion of assets that are legally required to be held in trust to assure payment to cash sellers of livestock.
- False weighing and use of inaccurate scales.
- Weight or price manipulations: Practices used to either fraudulently increase a person's profits, or to gain an unfair advantage over competitors.
- Misuse of custodial (trust) accounts by auction markets and commission firms.
- Commercial bribery: Any secret payment or valuable gift given or offered to obtain favored treatment.
- Extortion: Any purchase or sale made under duress or threat.
- Bankruptcy fraud: Preferential payments, planned bankruptcies, or "bustout schemes."
- Bait and switch advertising: Customers are "baited" into a store by advertisements, then "switched" to other products.
- Check kiting: "Kiting" or "swapping" checks by placing them in two or more bank accounts for the purpose of creating a false "float" or inflated balance.
- Unfair business-getting tactics such as free trucking, price guarantees, and commission rebates.
- Commission firms and auction markets defrauding consignors.
- Misrepresentation of quality, quantity, or origin.
- False accounting and recordkeeping.
- Illegal brokerage used as part of a payoff scheme.

Responsibilities of Sellers

Livestock sellers have specific responsibilities in order to be eligible for protection under P&SA's payment protection program. These include the following:

Bonds

The seller must file a written claim with P&SA within 120 days of the transaction in which he failed to receive payment.

Packer Trusts

This relates to sales of livestock to a meat packer. In order to preserve his rights under the packer trust, the seller must:

- Be a cash seller. The seller loses his right to protection under the statutory trust if he extends credit.
- File a written notice with both P&SA and the meat packer within 30 calendar days if payment is not received.
- File a written notice with both P&SA and the packer within 15 business days if the packer's check is returned unpaid.

Reparations

Claims must be filed with P&SA in writing within 90 days.

Penalties for Violations

- Cease and desist orders, similar to injunctions.
- Suspension of business operations.
- Civil penalties up to a maximum of \$10,000 per violation.
- Permanent injunctions, fines and jail sentences for actions taken through the Justice Department.

Enforcement Procedures

- *Informal actions*—Violations are corrected, where practical, without resorting to formal legal proceedings.
- *Administrative actions*—These actions are within USDA. A complaint, alleging specific violations, is filed against a firm or individual. The accused party has a right to a hearing before an administrative law judge. The law judge's decision may be appealed to the USDA Judicial Officer. The respondent may appeal the Judicial Officer's ruling to a U.S. appeals court, and further to the U.S. Supreme Court.
- *Court actions*—Legal action may be taken, through the Justice Department, in a U.S. district court against those subject to the Packers and Stockyards Act.

Reparations

Claims for reparations may be filed against stockyard operators, commission firms, auction markets, dealers and order buyers seeking reimbursement for damages. If a person is harmed by a packer, the Packers and Stockyards Act provides for private action by the claimant.

Packers and Stockyards Regional Offices and Areas of Responsibility

Office	Jurisdiction	Address	Telephone
Atlanta	AL, FL, GA, SC	Room 338 1720 Peachtree St. NW Atlanta, GA 30309	404/881-4845 404/881-4295
Bedford	DC, DE, MD, NC, VA, WV	Box 101 E Turnpike Road Bedford, VA 24523	703/982-4330
Denver	CO, MT, NM, UT, WY	208 Livestock Exchange Denver, CO 80216	303/294-7050
Ft. Worth	OK, TX	Rm. 8A36 Federal Bldg. 819 Taylor St. Ft. Worth, TX 76102	817/334-3286
Indian- apolis	IN, IL, KY, MI, OH	Room 436 46 East Ohio St. Indianapolis, IN 46204	317/269-6424
Kansas City	KS, MO	828 Livestock Exchange Kansas City, MO 64102	816/374-2368
Lawndale	AZ, CA, NV, HI	Room 2W6 15000 Aviation Blvd. Lawndale, CA 90261	213/536-6687
Memphis	AR, LA, MS, TN	Rm. 459 Federal Bldg. 167 North Main St. Memphis, TN 38103	901/521-3414
North Brunswick	CT, ME, MA, NH, NJ, NY, PA, RI, VT	Rm. 303 P.O. Box 1987 825 Georges Rd. North Brunswick, NJ 08902	201/246-0060
Omaha	IA, NE	909 Livestock Exchange Omaha, NE 68107	402/221-3391
Portland	ID, OR, WA, AK	Suite E 9370 S.W. Greenburg Rd. Portland, OR 97223	503/221-2687 503/246-3395
South St. Paul	MN, ND, SD, WI	208 Post Office Bldg. Box 8 South St. Paul, MN 55075	612/725-7876

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